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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,263	07/05/2000	Satoshi Kume	31671-164489RK	5002

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EXAMINER

TRAN, LOUIS B

ART UNIT PAPER NUMBER

3721

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/610,263

Applicant(s)

KUME ET AL.

Examiner

Louis B Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2-8 and 15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 29 May 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This action is in response to applicant's amendment, Paper No. 11, received on May 29, 2002.

Applicant's cancellation of claims 16 and 10-14 in Paper No. 11 is acknowledged.

Drawings

1. The addition of drawings 25a and 25b were received on May, 29, 2002. These drawings are deemed acceptable.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kreager et al. (4,534,818).

With respect to claim 1, Kreager et al. anticipates an ultrasonic sealing apparatus in which a laminated packaging material containing thermoplastic is formed into a tubular form and the tubular material is transversely ultrasonically sealed by an apparatus comprising of a horn 12 with an elongated and flat sealing face 24 and an opposing jaw 18 as seen in Figure 1 of Kreager et al. The opposing jaw is disclosed as having an elongated pressing face that presses the packaging material in cooperation

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with the sealing face of the horn and having a center portion and two end portions wherein the center portion is narrower than both end portions as seen in figure as item 28 in Figure 1.

With respect to claim 6, Kreager et al. discloses a narrow center portion 26 having a recess formed along a direction perpendicular to the longitudinal direction of the pressing face as seen in Figure 1.

With respect to claim 7, Kreager et al. discloses a center portion having a recess formed as an arc shape as seen in Figure 1.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kreager et al. in view of Bosche et al. (4,159,220).

With respect to claim 2, Kreager et al., does not show a laminated packaging material that contains a paper layer; however, Bosche et al. discloses the concept of thermoplastic laminate material containing a paper layer shown in Figure 1 of Bosche et al. for the purposes of moisture proofing and heat and pressure adhesive means described in column 1, line 20, of Bosche et al.

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Therefore it would have been obvious for one having ordinary skill in the art to provide Kreager et al. with thermoplastic laminate material containing a paper layer in order to moisture proof a package.

With respect to claim 3, Kreager et al. discloses the invention substantially as claimed including the features discussed above but does not show the transverse ultrasonic sealing is ultrasonic sealing with a fluid, an the ultrasonic horn and the opposing jaw press together to seal the tubular laminated packaging material filled with fluid content.

However, Bosche et al. discloses the transverse ultrasonic sealing is ultrasonic sealing with a fluid, an the ultrasonic horn and the opposing jaw press together to seal the tubular laminated packaging material filled with fluid content for the purposes of creating fluid tight seals as discussed in column 1, line 24.

Therefore, it would have been obvious to one having ordinary skill in the art to provide Kreager et al. with various packaging material filled with fluid content in order to provide fluid tight seals.

With respect to claim 4, Kreager et al. discloses the invention substantially as claimed including the features discussed above but does not show a center portion length that is longer than a length of a longitudinally sealed three-ply portion of the tubular packaging material under a pressed state; however, Bosche et al. discloses a center portion length that is longer than a length of a longitudinally sealed three-ply portion of the tubular packaging material under a pressed state for the purposes of accommodating the overlapped layers discussed in column 7, line 45, of Bosche et al.

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Therefore, it would have been obvious to one having ordinary skill in the art to provide Kreager et al. with a center portion length that is longer than a length of a three-ply portion in order to accommodate overlapped layers and create an improved seal.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kreager et al. in view of Nakanose (3, 962, 508).

Kreager discloses the invention substantially as claimed above but does not show a resin tape for sealing and creating the tubular form and only discloses the fusing of thermoplastic to form a seal; however, Nakanose discloses the common use of thermoplastic resin tap for packaging purposes in column 1, line 10.

Therefore, it would have been obvious for one having ordinary skill in the art to provide Kreager with thermoplastic resin tape in order to provide a means for sealing a package.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kreager et al. (4,534,818).

With respect to claim 5, Kreager et al. discloses the claimed invention except for a width of the center portion is $\frac{1}{4}$ to $\frac{1}{2}$ of a width of the pressing face at both end portions.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to find an optimum relation between the center portion and end portions, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

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Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611. The examiner can normally be reached on 8AM-6PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7718 for regular communications and 703-305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

lbt
July 17, 2002



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700